

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

SIMON J. BURCHETT PHOTOGRAPHY, INC.,

Plaintiff,

v.

A.P. MOLLER MAERSK A/S,

Defendant.

Case No. 19-CV-01576-DAB

Hon. Deborah A. Batts

Electronically Filed

DECLARATION OF MARK KRSULIC

I, MARK KRSULIC, under penalty of perjury, declare as follows:

1. I am employed as Director, Domestic Claims at Maersk Services USA, Inc., a subsidiary of A.P. Moller-Maersk A/S (“APMM”) that provides legal, tax, human resources and other support services to certain companies within the APMM group of companies.

2. I submit this Declaration in support of APMM’s Motion to Dismiss the First Amended Complaint.

3. I have personal knowledge of the facts stated below and if called as a witness could testify competently to them. My knowledge is based upon my review of the corporate records as well as my knowledge of APMM’s business and regular places of business it operates.

4. Based on my capacity and experience, I am familiar with, among other things, the corporate structure and business activities of APMM.

5. On November 9, 2018, Richard Garbarini sent a letter to APMM accusing APMM of violating the terms of its Unlimited Usage License and committing copyright infringement by publishing images of the Estelle Maersk on APMM’s Flickr page and other websites without authorization.

6. Plaintiff and APMM subsequently entered into a Settlement and Release Agreement effective December 18, 2018 (the “Settlement Agreement”), in which Plaintiff released claims relating to images of the Estelle Maersk. A redacted copy of the Settlement Agreement is attached hereto as Exhibit A. The only thing that has been redacted from this agreement is the amount of the settlement payment.

7. On February 22, 2019, Plaintiff purported to serve APMM with a Summons and a copy of a Complaint at 180 Park Avenue in Florham Park, NJ 07932.

8. APMM does not have a place of business at 180 Park Avenue in Florham Park, New Jersey, and APMM has not given written authorization to anyone working at that address to accept service of process on its behalf.

9. APMM is a Danish Company with its principal place of business in Copenhagen, Denmark. APMM has not received service of process in Denmark under The Hague Convention or by any other means.

10. Contrary to the allegations in the First Amended Complaint, APMM is not a “shipping company that regularly conduct[s] or solicit[s] business, or engage[s] in other persistent course of conduct, or derive[s] substantial revenue from goods used or consumed or services rendered, in this State.”

11. Additionally, APMM does not deliver “massive containership of goods to the Staten Island Port an average of 27 times a month.” Maersk Line A/S and other APMM subsidiaries are the shipping companies that own or charter the container ships referenced in the First Amended Complaint.

12. APMM does not have an established place of business in the United States.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

EXECUTED: March 14, 2019



MARK KRSULIC